



Office of the Attorney General
State of Texas

August 5, 1998

DAN MORALES

ATTORNEY GENERAL

Mr. Michael Cosentino
Bryan City Attorney
P.O. Box 1000
Bryan, Texas 77805

OR98-1857

Dear Mr. Cosentino:

You ask this office to reconsider our ruling in Open Records Letter No. 98-1047 (1998). Your request for reconsideration was assigned ID# 117034.

The Bryan Police Department (the "department") received a request for the complete investigation file on a shooting death. In Open Records Letter No. 98-1047 (1998), this office concluded that because the department had failed to timely request a ruling, the department could not withhold the requested information pursuant to section 552.108 of the Government Code. We further concluded that you could not withhold any of the requested information under section 552.101 of the Government Code.

In your request for reconsideration, you assert your original arguments for withholding the information. You also apparently argue that the city mail room employee who accepted the certified mail does not act as an agent for the city or the police department in accepting certified mail on behalf of the department. Thus, it appears that you contend that the department did not "receive" the mail for purposes of the deadline provisions for requesting an attorney general decision until the mail physically arrived at the department.

We have carefully reviewed your arguments regarding the timeliness of the requests for a ruling and the applicability of sections 552.101 and 552.108 to this request for information. We conclude that our original decision regarding the timeliness issue is correct and the ten-day time period started at the time the mail room employee accepted the certified mail. Furthermore, we believe that our decision regarding section 552.108 is correct. However, we now modify our decision under section 552.101. We find that the common-law right to privacy protects from disclosure a portion of the information. We have marked the documents accordingly. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, reading "Kay Hastings", is written over a horizontal line.

Kay Hastings
Deputy Chief
Open Records Division

KHH/mjc

Ref: ID# 117034

Enclosures: Submitted documents

cc: Mr. Joe A. Broussard, III
7158 S. Fairfax Ct.
Littleton, CO 80122
(w/o enclosures)